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10 QUEST DIAGNOSTICS INCORPORATED  
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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION**

12 MEDSQUIRE, LLC

13 Plaintiff,

14 vs.

15 SPRING MEDICAL SYSTEMS, INC.;  
16 QUEST DIAGNOSTICS, INC.;  
17 NEXTGEN HEALTHCARE  
18 INFORMATION SYSTEMS, INC.;  
19 HENRY SCHEIN MEDICAL  
20 SYSTEMS, INC.; HEWLETT-  
21 PACKARD COMPANY; APRIMA  
22 MEDICAL SOFTWARE, INC.;  
23 eCLINICALWORKS, LLC; MED3000,  
24 INC.; PULSE SYSTEMS, INC.;  
25 COMPULINK BUSINESS SYSTEMS,  
26 INC.; NEXTECH SYSTEMS, INC.;  
27 NAVINET, INC.; successEHS, INC.;  
28 athenaHEALTH, INC.

Defendants.

**Case No. CV11-4504-JHN (PLAx)**

**DEFENDANT QUEST**  
**DIAGNOSTICS**  
**INCORPORATED'S ANSWER TO**  
**THE SECOND AMENDED**  
**COMPLAINT FOR PATENT**  
**INFRINGEMENT**

**JURY TRIAL DEMANDED**

Judge: Hon. Jacqueline H. Nguyen

1 Defendant Quest Diagnostics Incorporated (“Quest”), for its Answer to the  
2 Second Amended Complaint (“SAC”) for Patent Infringement brought by Plaintiff  
3 Medsquire LLC (“Medsquire”), hereby states as follows:

4 **THE PARTIES<sup>1</sup>**

5 1. Quest is without knowledge or information sufficient to form a belief as  
6 to the truth of the allegations of paragraph 1.

7 2. Quest admits the allegations of paragraph 2.

8 3. Quest is without knowledge or information sufficient to form a belief as  
9 to the truth of the allegations of paragraph 3.

10 4. Quest is without knowledge or information sufficient to form a belief as  
11 to the truth of the allegations of paragraph 4.

12 5. Quest is without knowledge or information sufficient to form a belief as  
13 to the truth of the allegations of paragraph 5.

14 6. Quest is without knowledge or information sufficient to form a belief as  
15 to the truth of the allegations of paragraph 6.

16 7. Quest is without knowledge or information sufficient to form a belief as  
17 to the truth of the allegations of paragraph 7.

18 8. Quest is without knowledge or information sufficient to form a belief as  
19 to the truth of the allegations of paragraph 8.

20 9. Quest is without knowledge or information sufficient to form a belief as  
21 to the truth of the allegations of paragraph 9.

22 10. Quest is without knowledge or information sufficient to form a belief as  
23 to the truth of the allegations of paragraph 10.

24 11. Quest is without knowledge or information sufficient to form a belief as  
25 to the truth of the allegations of paragraph 11.

26 \_\_\_\_\_  
27 <sup>1</sup> Quest’s Answer adopts the headings used by Medsquire in the Second Amended  
28 Complaint. Quest’s use of Medsquire’s headings should not be taken as an admission  
that the headings accurately characterize Medsquire’s allegations.

1           12. Quest is without knowledge or information sufficient to form a belief as  
2 to the truth of the allegations of paragraph 12.

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4                                   **NATURE OF THE ACTION**

5           13. Quest admits that Plaintiff purports to seek damages for alleged patent  
6 infringement under the Patent Act of the United States, 35 U.S.C. §§ 1. Quest denies  
7 the remaining allegations of paragraph 13 as applicable to Quest. Quest is without  
8 knowledge or information sufficient to form a belief as to the truth of the allegations  
9 of this paragraph as they relate to other Defendants.

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11                                   **JURISDICTION AND VENUE**

12           14. Quest admits the allegations of paragraph 14.

13           15. Quest admits that Quest conducts business activities in this judicial  
14 district. Quest denies the remaining allegations of paragraph 15 as applicable to Quest.  
15 Quest is without knowledge or information sufficient to form a belief as to the truth of  
16 the allegations of paragraph 15 as they relate to other Defendants.

17           16. Quest admits that this Court has personal jurisdiction over it and that  
18 Quest conducts business in California. Quest denies the remaining allegations of  
19 paragraph 16 as applicable to Quest. Quest is without knowledge or information  
20 sufficient to form a belief as to the truth of the allegations of paragraph 16 as they  
21 relate to other Defendants.

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23                                   **FACTS COMMON TO EACH CLAIM FOR RELIEF**

24           17. Paragraph 17 of the SAC states legal conclusions to which no response is  
25 required. To the extent a response is required, Quest admits that the document  
26 attached as Exhibit A to the SAC appears to be a copy of the '526 Patent, entitled  
27 "Method and System for Flexibly Organizing, Recording, and Displaying Medical  
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1 Patient Care Information Using Fields in a Flowsheet.” Quest is without knowledge or  
2 information sufficient to form a belief as to the truth of the remaining allegations of  
3 paragraph 17.

4 18. Paragraph 18 of the SAC states legal conclusions to which no response is  
5 required. To the extent a response is required, Quest admits that according to Exhibit  
6 A, (a) the ‘526 Patent names Timothy L. Smokoff, Tom Marlin, and Herbert J. Uhrig  
7 as inventors; (b) the application resulting in the ‘526 patent was filed on July 20,  
8 1995; (c) the ‘526 patent was issued on October 28, 1997; and (d) the ‘526 patent  
9 names SpaceLabs Medical, Inc. as an assignee. Quest is without knowledge or  
10 information sufficient to form a belief as to the truth of the remaining allegations of  
11 paragraph 18.

12 19. Paragraph 19 of the SAC states legal conclusions to which no response is  
13 required. To the extent a response is required, Quest admits that the Abstract of the  
14 ‘526 states, in part: “A method and system for flexibly organizing, recording, and  
15 displaying medical patient care information is provided. In a preferred embodiment, a  
16 patient information management facility enables users to customize a patient  
17 information hierarchy, which defines and organizes the information that may be stored  
18 about each patient, as well as patient data flowsheets, which define views in which the  
19 patient data stored according to the hierarchy may be entered and viewed, in a way that  
20 is optimized for the structure and procedures of the particular health care  
21 organization.” Quest denies the remaining allegations of paragraph 19.

22 20. Paragraph 20 of the SAC appears to be Plaintiff’s purported claim  
23 construction of the claims of the ‘526 patent and therefore states legal conclusions to  
24 which no response is required. To the extent a response is required, Quest denies the  
25 allegations of paragraph 20.

26 21. Paragraph 21 of the SAC states legal conclusions to which no response is  
27 required. To the extent a response is required, Quest admits that the Office of the  
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1 National Coordinator (ONC) of the U.S. Department of Health and Human Services  
2 (HHS) issued a Final Rule to qualify HER technology for the American Recovery and  
3 Reinvestment Act (ARRA); rules governing ONC certification are available in 45  
4 C.F.R. Part 170; and ONC has approved certain organizations as an Authorized  
5 Testing and Certification Body (“ATCB”). Quest is without knowledge or  
6 information sufficient to form a belief as to the truth of the allegations of paragraph  
7 21.

8 22. Paragraph 22 of the SAC states legal conclusions to which no response is  
9 required. To the extent a response is required, Quest admits the allegations of  
10 paragraph 22.

11 23. Paragraph 23 of the SAC states legal conclusions to which no response is  
12 required. To the extent a response is required, Quest admits the allegations of  
13 paragraph 23.

14 24. Paragraph 24 of the SAC states legal conclusions to which no response is  
15 required. To the extent a response is required, Quest denies the allegations of  
16 paragraph 24 as stated.

17 25. Paragraph 25 of the SAC states legal conclusions to which no response is  
18 required. To the extent a response is required, Quest admits only that ASTM E2369 is  
19 a standard specification for CCR. As to the remainder of the allegations in Paragraph  
20 25, Quest denies the allegations of Paragraph 27 as stated.

21 26. Paragraph 26 of the SAC states legal conclusions to which no response is  
22 required. To the extent a response is required, Quest is without knowledge or  
23 information sufficient to form a belief as to the truth of the allegations of paragraph  
24 26.

25 27. Paragraph 27 of the SAC states legal conclusions to which no response is  
26 required. To the extent a response is required, Quest denies that the claims of the ‘527  
27 patent do not require any particular form of linking. Quest is without knowledge or  
28

1 information sufficient to form a belief as to the truth of the remaining allegations of  
2 paragraph 27.

3 28. Paragraph 28 of the SAC states legal conclusions to which no response is  
4 required. To the extent a response is required, Quest denies the allegations of  
5 paragraph 28.

6 29. Paragraph 29 of the SAC states legal conclusions to which no response is  
7 required. To the extent a response is required, Quest denies the allegations of  
8 paragraph 29.

9 30. Paragraph 30 of the SAC states legal conclusions to which no response is  
10 required. To the extent a response is required, Quest denies the allegations of  
11 paragraph 30.

12  
13 **FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS FOR**  
14 **DIRECT INFRINGEMENT OF U.S. PATENT NO. 5,682,526**

15 31. Quest incorporates herein by reference the answers set forth in paragraph  
16 1-30 of this Answer as though fully set forth herein.

17 ***Direct Infringement by Defendant Quest***

18 32. Quest denies the allegations of paragraph 32.

19 33. Quest admits only that the Care360 system is ONC compliant but denies  
20 the remainder of the allegations of paragraph 33 of the SAC as stated.

21 34. Paragraph 34 of the SAC states legal conclusions to which no response is  
22 required. To the extent a response is required, Quest denies the allegations of  
23 paragraph 34.

24 35. Paragraph 35 of the SAC states legal conclusions to which no response is  
25 required. To the extent a response is required, Quest denies the allegations of  
26 paragraph 35.

27 36. Paragraph 36 of the SAC states legal conclusions to which no response is  
28

1 required. To the extent a response is required, Quest denies the allegations of  
2 paragraph 36.

3 37. Quest admits that it complies with 45 CFR Sections 170.304(e) and  
4 170.302(a), but denies the remaining allegations of paragraph 37 as stated.

5 38. Quest denies the allegations of paragraph 38 as stated.

6 39. Paragraph 39 of the SAC states legal conclusions to which no response is  
7 required. To the extent a response is required, Quest denies the allegations of  
8 paragraph 39.

9 40. Paragraph 40 of the SAC states legal conclusions to which no response is  
10 required. To the extent a response is required, Quest denies the allegations of  
11 paragraph 40.

12 41. Paragraph 41 of the SAC states legal conclusions to which no response is  
13 required. To the extent a response is required, Quest denies the allegations of  
14 paragraph 41.

15  
16 ***Direct Infringement by Defendants NextGen, Henry Schein Medical, HP,***  
17 ***Aprima, eClinicalWorks, Med3000, Pulse, Compulink, Navinet, and***  
18 ***athenaHEALTH***

19 42.-141. Quest is without knowledge of information sufficient to form a  
20 belief as to the truth of the allegations of paragraphs 42-141.

21  
22 **SECOND CLAIM FOR RELIEF AGAINST DEFENDANT HP FOR**  
23 **INDIRECTLY INFRINGING U.S. PATENT NO. 5,682,526**

24 142. Quest incorporates herein by reference the answers set forth in  
25 paragraphs 1-141 of this Answer as though fully set forth herein.

26 143.-147. Quest is without knowledge or information sufficient to form a  
27 belief as to the truth of the allegations of paragraphs 143-147.

**THIRD CLAIM FOR RELIEF AGAINST DEFENDANT HP FOR  
CONTRIBUTING TO THE INFRINGEMENT OF U.S. PATENT NO. 5,682,526**

148. Quest incorporates herein by reference the answers set forth in paragraphs 1-147 of this Answer as though fully set forth herein.

149.-152. Quest is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 149-152.

**PRAYER FOR RELIEF**

WHEREFORE, Quest respectfully requests judgment be entered in its name and against the Plaintiff, together with costs and fees under 35 U.S.C. §285.

**AFFIRMATIVE DEFENSES**

By way of further defenses, Quest asserts the following, which apply to each and every claim asserted against Quest in the Second Amended Complaint. By virtue of alleging these further defenses, Quest does not assume any burden of proof, persuasion or production not otherwise legally assigned to it.

**FIRST AFFIRMATIVE DEFENSE**

**(Invalidity of the '526 Patent)**

The claims of the '526 Patent are invalid under 35 U.S.C. §§101, 102, 103, and/or 112.

**SECOND AFFIRMATIVE DEFENSE**

**(Non-infringement of the '526 Patent)**

Quest has not infringed any valid claim of the '526 Patent as alleged.



**THIRD AFFIRMATIVE DEFENSE**

**(Laches)**

On information and belief, the Plaintiff's alleged entitlement to damages that accrued before the filing of this case is barred, in whole or in part, by laches.

**FOURTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

On information and belief, the Plaintiff's alleged causes of action are barred, in whole or in part, by estoppel.

**FIFTH AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

The Second Amended Complaint fails to state facts sufficient to state a claim upon which relief can be granted and/or sufficient to constitute a cause of action against Quest.

Dated: November 8, 2011

Respectfully Submitted,

BAKER & MCKENZIE LLP

/s/ D. James Pak

D. James Pak

Attorney for Defendant QUEST

DIAGNOSTICS INCORPORATED

**JURY DEMAND**

Quest respectfully demands a jury trial on all issues and claims so triable.

Dated: November 8, 2011

Respectfully Submitted,

BAKER & McKENZIE LLP

/s/ D. James Pak

D. James Pak

Attorney for Defendant QUEST  
DIAGNOSTICS, INC.